

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY MAY 31, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1136**

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**Introduced by Assembly Member Swanson**

February 18, 2011

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An act to add Section 6403.5 to the Labor Code, relating to employment safety.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Swanson. Employment safety: health facilities. Existing law regulates the operation of health facilities.

Existing law, the California Occupational Safety and Health Act of 1973, establishes certain safety and other responsibilities of employers and employees, including the requirement that employers provide safety devices and safeguards reasonably necessary to render the employment safe. *Willful or repeated violations are a crime.*

This bill would make findings and declarations concerning the lifting, repositioning, and transfer of patients in acute care hospitals and resulting injuries to hospital personnel.

This bill would require an employer to maintain a safe patient handling policy, as defined, for patient care units, and to provide trained lift teams, as defined, or staff trained in safe lifting techniques in each general acute care hospital. The safe patient handling policy would require the replacement of manual lifting and transferring of patients

with powered patient transfer devices, lifting devices, or lift teams, as specified. As part of the injury and illness prevention programs required by existing regulations, employers would be required to adopt a patient protection and health care worker back and musculoskeletal injury prevention plan, which shall include a safe patient handling policy component, as specified, to protect patients and health care workers in health care facilities. *By changing the definition of a crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. This act shall be known and cited as the Hospital
- 2 Patient and Health Care Worker Injury Protection Act.
- 3 SEC. 2. The Legislature finds and declares the following:
- 4 (a) In 2008, there were 36,130 occupational musculoskeletal
- 5 disorder (MSD) cases in private industry where the source of injury
- 6 or illness was a health care patient or resident of a health care
- 7 facility. This accounted for 11 percent of the 317,440 total cases
- 8 of MSDs that resulted in ~~a~~ at least one lost day from work in 2008.
- 9 Almost all (98 percent) of the cases involving patient handling
- 10 occurred within the health care and social assistance industry,
- 11 composing 55 percent of the 64,300 total MSD cases in that
- 12 industry.
- 13 (b) For MSD cases involving patient handling, almost all (99
- 14 percent) were the result of overexertion. A sprain, strain, or tear
- 15 was the type of injury that was incurred in 84 percent of the MSD
- 16 cases involving patient handling.
- 17 (c) Nursing aides, orderlies, and attendants incurred occupational
- 18 injuries or illnesses in 52 percent of the MSD cases involving
- 19 health care patients. Registered nurses accounted for 16 percent
- 20 and home health aides for another 6 percent. Other occupations
- 21 with MSD cases involving health care patients included licensed

1 practical and licensed vocational nurses; emergency medical  
2 technicians and paramedics; personal and home care aides; health  
3 care support workers; radiologic technologists and technicians;  
4 and medical and health services managers.

5 (d) Over 12 percent of the nursing workforce leaves the bedside  
6 due to back injuries each year. California's nursing workforce is  
7 aging at the same time patient acuity and obesity ~~is~~ *are* rising. It  
8 is imperative that we protect our registered nurses and other health  
9 care workers from injury, and provide patients with safe and  
10 appropriate care. At a cost of between sixty thousand dollars  
11 (\$60,000) and ~~one hundred~~ *one hundred* forty thousand dollars  
12 (\$140,000) to train and orient each new nurse, preventing turnover  
13 from injuries will save hospitals money.

14 SEC. 3. Section 6403.5 is added to the Labor Code, to read:

15 6403.5. (a) An employer shall maintain a safe patient handling  
16 policy at all times for all patient care units, and shall provide  
17 trained lift teams or other support staff trained in safe lifting  
18 techniques in each general acute care hospital. The employer shall  
19 provide training to health care workers that includes, but is not  
20 limited to, the following:

21 (1) The appropriate use of lifting devices and equipment.

22 (2) The five areas of body exposure: vertical, lateral, bariatric,  
23 repositioning, and ambulation.

24 (3) The use of lifting devices to handle patients safely.

25 (b) As the coordinator of care, the registered nurse shall be  
26 responsible for the observation and direction of patient lifts and  
27 mobilization, and shall participate as needed in patient handling  
28 ~~in-accord~~ *accordance* with the nurse's job description.

29 (c) For purposes of this section, "lift team" means hospital  
30 employees specifically trained to handle patient lifts,  
31 repositionings, and transfers using patient transfer, repositioning,  
32 or lifting devices as appropriate for the specific patient. Lift team  
33 members may perform other duties as assigned during their shift.

34 (d) For the purposes of this section, "safe patient handling  
35 policy" means a policy that requires replacement of manual lifting  
36 and transferring of patients with powered patient transfer devices,  
37 lifting devices, and lift teams, as appropriate for the specific patient  
38 and consistent with the employer's safety policies and the  
39 professional judgment and clinical assessment of the registered  
40 nurse.

1 (e) As part of the injury and illness prevention programs required  
2 by Section 3203 of Title 8 of the California Code of Regulations,  
3 or any successor law or regulation, employers shall adopt a patient  
4 protection and health care worker back and musculoskeletal injury  
5 prevention plan. The plan shall include a safe patient handling  
6 policy component reflected in professional occupational safety  
7 guidelines for the protection of patients and health care workers  
8 in health care facilities.

9 (f) A health care worker who refuses to lift, reposition, or  
10 transfer a patient due to concerns about patient or worker safety  
11 and the lack of trained lift team personnel or equipment shall not,  
12 based upon the refusal, be the subject of disciplinary action by the  
13 hospital or any of its managers or employees.

14 *SEC. 4. No reimbursement is required by this act pursuant to*  
15 *Section 6 of Article XIII B of the California Constitution because*  
16 *the only costs that may be incurred by a local agency or school*  
17 *district will be incurred because this act creates a new crime or*  
18 *infraction, eliminates a crime or infraction, or changes the penalty*  
19 *for a crime or infraction, within the meaning of Section 17556 of*  
20 *the Government Code, or changes the definition of a crime within*  
21 *the meaning of Section 6 of Article XIII B of the California*  
22 *Constitution.*